

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD TUCKER,  
PETITIONER

:  
:

FILED  
HARRISBURG, PA

NO. 1:CV-00-1780

(JUDGE KANE)

v.

:  
APR 28 2003

MICHAEL ZENK,  
RESPONDENT.

MARY E. D'ANDREA, CLERK  
Per \_\_\_\_\_

:  
:

: MOTION TO COMPEL DISCOVERY

MOTION FOR ORDER COMPELLING DISCLOSURE OR DISCOVERY  
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 37

COMES NOW, Ronald Tucker, Movant, pro se, (hereinafter "movant") and duteously beseeches this Honorable Court to issue an Order pursuant to Federal Rules of Civil Procedure 37, and compel the respondent to make documents available to movant and this Court, for inspection and copying.

Movant currently has pending before this Court, a motion pursuant to Fed. Rules. Civ. P. 60(b). This 60(b) motion pertains to newly discovered evidence and fraud perpetrated upon the Court regarding the B.O.P.'s fraudulent statements of movant being removed from state custody pursuant to a writ of habeas corpus ad prosequendum.

On January 30, 2003, movant submitted to this Court and to the respondent, a request for production of documents along with an affidavit in support of his motion and a letter to the Court informing the Court of the improprieties of Bureau of Prison staff.

In a letter to movant, dated February 11, 2003 from the Assistant United States Attorney, Kate Mershimer, representing the respondent, the Assistant U.S. Attorney stated: "...the United States will not be responding to your Request for Production of Documents." The A.U.S.A. also stated: "[T]he respondents object to your discovery request as being improper and irrelevant."

Movant vehemently contends that the documents he requested in his "Request for Production of Documents" are relevant to the case at bar, so much as the Executive Assistant of FCI-Allenwood was willing to give said papers to movant in return for his withdrawal of a pending grievance against her.

Movant humbly and respectfully asks this Honorable Court to issue an Order to Compel the respondent to disclose said documents.

If the Court does not issue an Order compelling discovery, movant would beg this Court to take **judicial notice** of the fact that the documents described in movant's "Request for Production of Documents" do in fact exist, and in framing its decision of movant's pending Rule 60(b) motion, will **sua sponte**, recognize the existence of truth of the facts bearing on the controversy of whether or not a writ exists in the case at bar.

Whereby movant prays that this Motion to Compel Discovery be granted.

Respectfully Submitted,



**CERTIFICATE OF SERVICE**

I certify that on February 13, 2003, I mailed a copy of this **MOTION TO COMPEL DISCOVERY** along with attachments, via first class mail to the following parties at the addresses listed below:

CLERK OF THE COURT  
THE HONORABLE YVETTE KANE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA  
228 WALNUT STREET  
HARRISBURG, PA 17108

KATE L. MERSHIMER ESQ.  
ASSISTANT U.S. ATTORNEY  
UNITED STATES ATTORNEY'S OFFICE  
MIDDLE DISTRICT OF PENNSYLVANIA  
228 WALNUT STREET, 2ND FL.  
P.O. BOX 11754  
HARRISBURG, PA 17108-1754

I certify that these documents were given to prison officials February 13, 2003 for forwarding to the above-listed addresses.

I certify that the foregoing is true and correct. 28 U.S.C. §1746.

*Donald Ducker*  
/s/

Dated: February 13, 2003

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

1130	1127	<b>RONALD TUCKER 39030-053 (3A)</b>	
		Postage \$ .37	
		Certified Fee 2.30	
		Return Receipt Fee (Endorsement Required) 1.75	
		Restricted Delivery Fee (Endorsement Required)	
		Total Postage & Fees \$ 4.42	
<b>Recipient's Name (Please Print Clearly) (to be completed by mailer)</b> <i>Kate L. Mershimer, A.U.S.A. U.S. ATTORNEY</i> <b>Street, Apt. No., or PO Box No.</b> <i>Office 228 Walnut St P.O. Box 11754</i> <b>City, State, ZIP</b> <i>HARRISBURG PA 17108-1754</i>			
PS Form 3800, February 2000		See Reverse for Instructions	

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

**KATE L. MERSHIMER ESQ.  
ASSISTANT U.S. ATTORNEY  
UNITED STATES ATTORNEY'S OFFICE  
MIDDLE DISTRICT OF PA  
228 WALNUT STREET 2ND FL.  
P.O. BOX 11754  
HARRISBURG, PA 17108-1754**

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

*Emilie F. Frist*  Agent  
 Addressee

## B. Received by (Printed Name)

C. Date of Delivery  
**FEB 19 2003**D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

## 3. Service Type

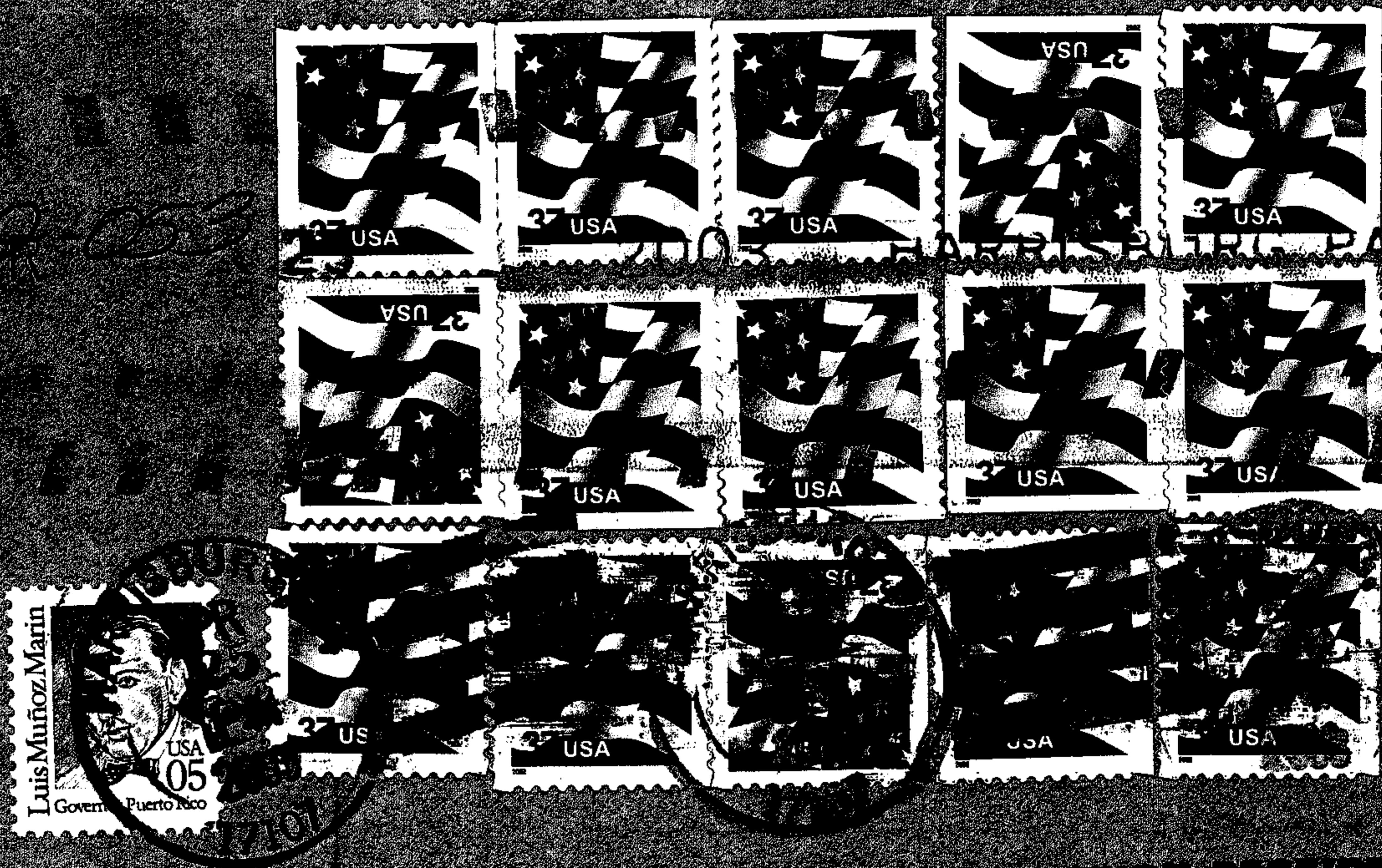
Certified Mail  Express Mail  
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 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

## 2. Article Number

(Transfer from service label) **7000 0600 0027 1130 1127**





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